(b)(3)
F-2007-01615 (b)(6)

TELECOPIER TRANSMITTAL SHEET

TO: Mr. Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505
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FROM: Mark S. Zaid, Esq.
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SUBJECT: State Secrets Privilege FOIA Request

DATE: July 6, 2007

NUMBER OF PAGES TRANSMITTED (INCLUDING COVER SHEET): 14

MESSAGE/CONTENTS:

PLEASE SEE ATTACHED.

2007 JUL -6 AM 9:40

CONFIDENTIALITY NOTICE

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6 July 2007

VIA FACSIMILE

Scott A. Koch
Central Intelligence Agency
Information and Privacy Coordinator
Washington, D.C. 20505

Re: FOIA Request – State Secret Privilege Declarations

Dear Mr. Koch:

This is a request on behalf of The James Madison Project under the Freedom of Information Act, 5 U.S.C. § 552, et seq., for copies of any and all declarations or affidavits filed by the Director (or his designee) of the Central Intelligence Agency ("CIA") in the following lawsuits wherein the state secrets privilege was invoked:

(1) Heine v. Raus, 261 F. Supp. 570 (D.Md. 1966) or its progeny: 399 F.2d 785 (4th Cir. 1968), 305 F. Supp. 816 (D. Md. 1969), 432 F.2d 1007 (4th Cir. Md. 1970)

(2) Halkin v. Helms, Civil Action No. 75-1773 (D.D.C.), 690 F.2d 977 (D.C. Cir. 1982)

(3) Foster v. United States, 12 Cl. Ct. 492 (1987)

Please note that the listed case citations are for reference purposes only to assist with identification of the relevant lawsuit and files, and is not intended to be relied upon for the specific proceeding in which the declaration or affidavit was filed (i.e., it may have been filed in an earlier proceeding in the noted lawsuit).

If you deny all or part of this request, please cite the specific exemptions you believe justifies your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please "black out" rather than "white out" or "cut out".

We are hereby requesting a waiver of all fees. The James Madison Project is a non-profit organization under the laws of the District of Columbia and has the ability to disseminate information on a wide scale. Stories concerning our activities have received prominent mention in many publications including, but not limited to, *The Washington Post*, *The Washington Times*, *St. Petersburg Tribune*, *San Diego Union Tribune*, *European Stars & Stripes*, *Christian Science Monitor*, *U.S. News and World Report*, *Mother Jones* and *Salon Magazine*. Our website, where much of the information received through our FOIA requests is or will be posted for all to review, can be accessed at *http://www.jamesmadisonproject.org*. Prior requests submitted by our organization have all received fee waivers by your Agency.

Furthermore, there can be no question that the information sought would contribute to the public's understanding of government operations or activities and is in the public interest. The invocation of the state secrets privilege, especially by the CIA, is of significant interest to the public. Numbers articles, such as those attached that have appeared within the last five years, has led to an increased interest in the topic. In fact, on February 13, 2007, the House Committee on Oversight and Government Reform held a hearing at which the undersigned appeared as an expert witness on the Whistleblower Protection Enhancement Act of 2007 that included provisions pertaining to the state secrets privilege.

Never before has any of the declarations or affidavits submitted by an agency head been released to the public. The copies that are sought after in this request led to the dismissal of the stated lawsuits and the contents of the requested records contributed if not outright mandated that result. The release of this historic information would significantly contribute to the understanding of the information provided by agencies, such as the CIA, to the courts when considering the state secrets privilege.

Please respond to this request within 20 working days as provided for by law. Failure to timely comply may result in the filing of a civil action against your agency in the United States District Court for the District of Columbia. Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me at either (202) 498-0011 or my law office at (202) 454-2809.

Finally, please have all return correspondence addressed specifically to my attention to ensure proper delivery.

(b)(6)

Mark S. Zaid
Executive Director

Reform of state secrecy privilege urged UPI June 1, 2007 Friday 10:45 AM EST

UPI

June 1, 2007 Friday 10:45 AM EST

LENGTH: 334 words

HEADLINE: Reform of state secrecy privilege urged

DATELINE: WASHINGTON, June 1

BODY:

A bipartisan panel says a national security privilege, which the U.S. government can use to quash lawsuits, should be reformed.

The panel is made up of former officials and legal experts.

Known as the state secrets privilege, the doctrine has its roots in British common law and allows the U.S. government to argue that the disclosure of certain evidence in court may damage national security, effectively ending the litigation.

The panel, set up by the Constitution Project, released a report Thursday.

It recommends that Congress "conduct hearings to investigate the ways in which the state secrets privilege is asserted, and craft statutory language to clarify that judges, not the executive branch, have the final say about whether disputed evidence is subject to the state secrets privilege."

The panel's 41 members include former federal Judge William Sessions, who was FBI director under Presidents Ronald Reagan, George H. W. Bush and Bill Clinton; Philip Heymann and Bruce Fein, who were deputy attorneys general for Clinton and Reagan respectively; Louis Fisher, the leading specialist in constitutional law at the Library of Congress; and David Kay, formerly head of the U.N. weapons inspectors in Iraq, and subsequently of the U.S. Iraq Survey Group.

"Unless claims about state secrets evidence are subjected to independent judicial scrutiny, the executive branch is at liberty to violate legal and constitutional rights with impunity and without the public scrutiny that ensures that the government is accountable for its actions," reads the report.

It states judges are too ready to abdicate their responsibility to see the evidence before accepting the government's contention that its disclosure would damage national security.

"By accepting these claims as valid on their face, courts undermine the principle of judicial independence, the adversary process, fairness in the courtroom, and our constitutional system of checks and balances."

Shaun Waterman, UPI Homeland and National Security Editor

LOAD-DATE: June 2, 2007

The New York Times

June 4, 2006 Sunday
Late Edition - Final

SECTION: Section 1; Column 1; National Desk; Pg. 32

LENGTH: 1315 words

HEADLINE: Invoking Secrets Privilege Becomes a More Popular Legal Tactic by U.S.

BYLINE: By SCOTT SHANE

DATELINE: WASHINGTON, June 3

BODY:

Facing a wave of litigation challenging its eavesdropping at home and its handling of terror suspects abroad, the Bush administration is increasingly turning to a legal tactic that swiftly torpedoes most lawsuits: the state secrets privilege.

In recent weeks alone, officials have used the privilege to win the dismissal of a lawsuit filed by a German man who was abducted and held in Afghanistan for five months and to ask the courts to throw out three legal challenges to the National Security Agency's domestic surveillance program.

But civil liberties groups and some scholars say the privilege claim, in which the government says any discussion of a lawsuit's accusations would endanger national security, has short-circuited judicial scrutiny and public debate of some central controversies of the post-9/11 era.

The privilege has been asserted by the Justice Department more frequently under President Bush than under any of his predecessors -- in 19 cases, the same number as during the entire eight-year presidency of Ronald Reagan, the previous record holder, according to a count by William G. Weaver, a political scientist at the University of Texas at El Paso.

While the privilege, defined by a 1953 Supreme Court ruling, was once used to shield sensitive documents or witnesses from disclosure, it is now often used to try to snuff out lawsuits at their inception, Mr. Weaver and other legal specialists say.

"This is a very powerful weapon for the executive branch," said Mr. Weaver, who has a law degree and is a co-author of one of the few scholarly articles examining the privilege. "Once it's asserted, in almost every instance it stops the case cold."

Robert M. Chesney, a law professor at Wake Forest University who is studying the recent use of the privilege, said the administration's legal strategy "raises profound legal and policy questions that will be the subject of intense debate for the foreseeable future."

Some members of Congress also have doubts about the way the privilege has been used. A bill approved by the House Government Reform Committee would limit its use in blocking whistle-blowers' lawsuits.

"If the very people you're suing are the ones who get to use the state secrets privilege, it's a stacked deck," said Representative Christopher Shays, Republican of Connecticut, who proposed the measure and has campaigned against excessive government secrecy.

Yet courts have almost always deferred to the secrecy claims; Mr. Weaver said he believed that the last unsuccessful assertion of the privilege was in 1993. Steven Aftergood, an expert on government secrecy at the Federation of American Scientists, said, "It's a sign of how potent the national security mantra has become."

Under Mr. Bush, the secrets privilege has been used to block a lawsuit by a translator at the Federal Bureau of Investigation, Sibel Edmonds, who was fired after accusing colleagues of security breaches; to stop a discrimination lawsuit filed by Jeffrey Sterling, a Farsi-speaking, African-American officer at the Central Intelligence Agency; and to de-

rail a patent claim involving a coupler for fiber-optic cable, evidently to guard technical details of government eavesdropping.

Such cases can make for oddities. Mark S. Zaid, who has represented Ms. Edmonds, Mr. Sterling and other clients in privilege cases, said he had seen his legal briefs classified by the government and had been barred from contacting a client because his phone line was not secure.

"In most state secrets cases, the plaintiffs' lawyers don't know what the alleged secrets are," Mr. Zaid said.

More recently the privilege has been wielded against lawsuits challenging broader policies, including the three lawsuits attacking the National Security Agency's eavesdropping program -- one against AT&T by the Electronic Frontier Foundation in San Francisco and two against the federal government by the American Civil Liberties Union in Michigan and the Center for Constitutional Rights in New York.

In a filing in the New York case, John D. Negroponte, the director of national intelligence, wrote that allowing the case to proceed would "cause exceptionally grave damage to the national security of the United States" because it "would enable adversaries of the United States to avoid detection." Mr. Negroponte said he was providing more detail in classified filings.

Those cases are still pending. Two lawsuits challenging the government's practice of rendition, in which terror suspects are seized and delivered to detention centers overseas, were dismissed after the government raised the secrets privilege.

One plaintiff, Maher Arar, a Syrian-born Canadian, was detained while changing planes in New York and was taken to Syria, where he has said he was held in a tiny cell and beaten with electrical cables. The other, Khaled el-Masri, a German of Kuwaiti origin, was seized in Macedonia and taken to Afghanistan, where he has said he was beaten and injected with drugs before being released in Albania.

The United States never made public any evidence linking either man to terrorism, and both cases are widely viewed as mistakes. Mr. Arar's lawsuit was dismissed in February on separate but similar grounds from the secrets privilege, a decision he is appealing. A federal judge in Virginia dismissed Mr. Masri's lawsuit on May 18, accepting the government's secrets claim.

One frustration of the plaintiffs in such cases is that so much information about the ostensible state secrets is already public. Mr. Arar's case has been examined in months of public hearings by a Canadian government commission, and Mr. Masri's story has been confirmed by American and German officials and blamed on a mix-up of similar names. The N.S.A. program has been described and defended in numerous public statements by Mr. Bush and other top officials and in a 42-page Justice Department legal analysis.

In the A.C.L.U. lawsuit charging that the security agency's eavesdropping is illegal, Ann Beeson, the group's associate legal director, acknowledged that some facts might need to remain secret. "But you don't need those facts to hear this case," she said. "All the facts needed to try this case are already public."

Brian Roehrkasse, a Justice Department spokesman, said he could not discuss any specific case. But he said the state secrets privilege "is well-established in federal law and has been asserted many times in our nation's history to protect our nation's secrets."

Other defenders of the administration's increasing use of the privilege say it merely reflects proliferating lawsuits.

In all of the N.S.A. cases, for instance, "it's the same secret they're trying to protect," said H. Bryan Cunningham, a Denver lawyer who served as a legal adviser to the National Security Council under Mr. Bush. Mr. Cunningham said that under well-established precedent, judges must defer to the executive branch in deciding what secrets must be protected.

But critics of the use of the privilege point out that officials sometimes exaggerate the sensitivities at risk. In fact, documents from the 1953 case that defined the modern privilege, United States v. Reynolds, have been declassified in recent years and suggest that Air Force officials misled the court.

An accident report on a B-29 bomber crash in 1948 was withheld because the Air Force said it included technical details about sensitive intelligence equipment and missions, but it turned out to contain no such information, said Wilson M. Brown III, a lawyer in Philadelphia who represented survivors of those who died in the crash in recent litigation.

"The facts the Supreme Court was relying on in Reynolds were false," Mr. Brown said in an interview. "It shows that if the government is not truthful, plaintiffs will lose and there's very little chance to straighten it out."

URL: http://www.nytimes.com

GRAPHIC: Photos: The government has used the state secrets privilege against, clockwise from top left, a whistle-blower suit by Sibel Edmonds, a translator who was fired by the F.B.I.
a discrimination suit by Jeffrey Sterling, a former C.I.A. officer
and two rendition suits by Khaled el-Masri of Germany and Maher Arar of Canada. All four cases were dismissed.
(Photo by Ruedinger Baessler/European Pressphoto Agency)
(Photo by Ian Austen for The New York Times)
(Photo by Susana Raab/Aurora)
(Photo by Linda Spillers/Getty Images)

LOAD-DATE: June 4, 2006

State secrets privilege slams door on civil suits Chicago Tribune May 24, 2006 Wednesday

Chicago Tribune

May 24, 2006 Wednesday
Chicago Final Edition

SECTION: NEWS ; ZONE C; Pg. 1

LENGTH: 948 words

HEADLINE: State secrets privilege slams door on civil suits

BYLINE: By Andrew Zajac, Washington Bureau.

DATELINE: WASHINGTON

BODY:

A suit filed this week in Chicago by author Studs Terkel and others accusing AT&T of invading its customers' privacy by sharing phone records with the National Security Agency could provide the next test of whether the Bush administration employs a once-rare tactic that essentially gives the government a blank check to kill civil suits.

Earlier this month, Justice Department lawyers intervened in an invasion-of-privacy suit in San Francisco against AT&T and asserted what is known as the state secrets privilege by asking a judge to dismiss the case because they said allowing it to go forward would compromise national security.

The government has repeatedly invoked the state secrets privilege to head off challenges to two of the most sensitive aspects of the administration's war on terror--domestic electronic surveillance and so-called extraordinary renditions. In the latter instance, suspected terrorists are secretly picked up overseas and sent to foreign countries for interrogations under harsh conditions.

All told, the administration has asserted the privilege at least six times since 2001.

Last week, the government used the privilege to short-circuit a German man's suit alleging that he was wrongfully imprisoned in Afghanistan for five months in a case of mistaken identity. In the San Francisco invasion-of-privacy suit, brought by the non-profit Electronic Frontier Foundation, a judge has set a June date for arguments on the government's secrets claim.

The suit charges that AT&T gave the NSA access to databases of domestic and international Internet and telephone records without obtaining prior court approval.

The Justice Department declined to discuss specific cases. The department said in a statement that both the head of an agency seeking to protect information, such as the Central Intelligence Agency or NSA, and Justice Department lawyers must agree that national security is at stake before asking a court to dismiss a case.

But Harvey Grossman, legal director of the ACLU of Illinois, which co-filed the Chicago suit, said invoking the state secrets privilege has moved from an extremely selectively used tool to a weapon of choice in combating suits challenging national security policy. "Anything that touches on national security, we expect to see" an assertion of the state secrets privilege, Grossman said.

He said he expects the government to use the privilege in the Illinois lawsuit, but "we're hoping we can convince a judge that the case can be tried in a way that protects the government's legitimate interests." The Illinois case is narrower in scope than the one in California, he said.

Although use of the secrets privilege is limited to the federal government, Verizon, a telecom company linked in news accounts to the NSA surveillance program, has tried to shield itself from regulatory scrutiny by arguing that its hands are tied by the administration's use of the privilege.

"The inability of Verizon to provide information concerning its cooperation, if any, with the NSA program is further demonstrated by the `state secrets' privilege which the Department of Justice has invoked in connection with a

pending federal court action," the company wrote in a filing with the Maine Public Utility Board. The board is conducting an inquiry after a customer complained.

A company spokesman declined to comment. In an earlier statement, Verizon denied supplying various specific categories of telecom data to the NSA but said it would neither confirm nor deny "whether it has any relationship to the classified NSA program."

In addition to its use in NSA surveillance cases, the state secrets privilege has been cited at least twice in high-profile cases challenging renditions.

On May 17, a Washington judge accepted the government's assertion of a secrets privilege in dismissing a case brought by Khaled al-Masri, a German citizen who said he was a victim of mistaken identity when he was arrested in Macedonia in December 2003 and flown to Afghanistan, imprisoned and beaten. The judge said that if al-Masri's claims were true, he deserved redress but that national security trumped his cause.

The government also cited state secrets in the case of Maher Arar, a Syrian and Canadian citizen who said he was detained while transiting through New York's Kennedy International Airport in September 2002 and flown to Syria, where he was imprisoned and tortured. He eventually was released and never charged with a crime.

In throwing out Arar's case in February, the judge did not specifically rule on the government's secrets claim but said Arar did not have legal standing for his suit and noted the "national security and foreign policy considerations at stake."

The state secrets privilege, recognized in modern form in a 1953 Supreme Court case, was used sparingly and narrowly for decades.

But in the past quarter-century or so, use of the privilege has grown more frequent. The scope of requests has also expanded, with the government seeking the elimination of particular pieces of evidence and asking that entire cases be tossed out of court, according to Mark Zaid, a Washington attorney who represented plaintiffs in three recent cases ended by assertion of the secrets privilege.

The privilege is a particularly lethal legal weapon because the federal judiciary is loath to dispute executive branch decisions on national security questions and almost never rejects a government request for secrecy. "The judges don't want to be the ones who release the family jewels," Zaid said.

As a result, there's a powerful temptation for government lawyers to overuse the privilege, because, Zaid said, "They know the judges will accept it."

azajac@tribune.com

GRAPHIC: PHOTO (color): Harvey Grossman of the ACLU of Illinois: "Anything that touches on national security, we expect to see" an assertion of the state secrets privilege. Tribune photo by Charles Osgood.
PHOTO

LOAD-DATE: May 24, 2006

4th Circuit rules state secrets privilege bars bias suit against CIA The Daily Record (Baltimore, MD) August 8, 2005 Monday

The Daily Record (Baltimore, MD)

August 8, 2005 Monday

SECTION: NEWS

LENGTH: 737 words

HEADLINE: 4th Circuit rules state secrets privilege bars bias suit against CIA

BYLINE: Barbara Grzincic

BODY:

A former covert agent cannot pursue his race discrimination claim against the Central Intelligence Agency, the 4th U.S. Circuit Court of Appeals has held.

The appeals court affirmed the dismissal of Jeffrey Alexander Sterling's Title VII lawsuit, conceding that it was barring his access to the court in the interests of national security.

"Dismissal follows inevitably when the sum and substance of the case involves state secrets ," Judge J. Harvie Wilkinson III wrote. "Needless to say, litigation centering around a covert agent's assignments, evaluations, and colleagues meets this test."

Sterling, who is black, was an operations officer in the CIA's Near East and South Asia division from 1993 to 2001.

In a lawsuit that was transferred to federal court in Alexandria, Va., Sterling alleged that the CIA's expectations for him were "far above those required of non-African-American Operations Officers." He claimed he was repeatedly denied good opportunities and given more difficult tasks than non-black operatives, and that the agency vandalized his personal property.

He also alleged that when he utilized the CIA's internal Equal Employment Opportunity process, the agency retaliated by moving up the date for his security processing -- which he characterized as an "arbitrary regime within the CIA that is utilized more for its nature as a tool for intimidation than any substantive security implications."

However, the CIA invoked the state secrets privilege and, based on affidavits by CIA Director George Tenet, U.S. District Judge Gerald Bruce Lee dismissed the lawsuit.

At risk

On appeal, Sterling argued that even if the privilege did apply, Lee abused his discretion by dismissing the suit in its entirety.

The 4th Circuit disagreed, finding no way for Sterling to prevail "without exposing at least some classified details of the covert employment that gives context to his claim."

"It would be impossible to avoid investigation into the comparative responsibilities of Sterling and other CIA agents, the nature and goals of their duties, the operational tools provided (or denied) to them, and their comparative opportunities and performance in the field," Wilkinson wrote.

Even if Sterling could make out a prima facie case without such comparisons, the CIA would still be forced to divulge such evidence in its defense, the court noted.

"Furthermore, the very methods by which evidence would be gathered in this case are themselves problematic," Wilkinson wrote, since many of the witnesses would themselves be operatives whose cover would be at risk if they were forced to testify, even at a deposition.

"And once they do appear, it is doubtful what information they could provide that would not have national security implications," the opinion said. "Almost any relevant bit of information could be dangerous to someone, even if the agent himself was not aware that giving the answer could jeopardize others."

Comforted

The court recognized that it was putting a special burden on Sterling, denying him the "fundamental principle of access" to the courts. However, it noted that the CIA does have an internal EEO process -- the same process Sterling claimed he suffered retaliation for using.

"We take comfort in the fact that Sterling and those similarly situated are not deprived of all opportunity to press discrimination claims," Wilkinson wrote.

While an internal review process is not a prerequisite to invoking the state secrets privilege, "invocation of the privilege in federal court must not operate to discourage the CIA's own efforts to provide a working environment that honors our nation's bedrock commitment to nondiscrimination and fair treatment," the court concluded.

WHAT THE COURT HELD

Case:

Sterling v. Tenet, Director CIA, and John Does 1-10, US4th No. 04-1495. Published. Opinion by Wilkinson, J. Filed Aug. 3, 2005.

Issue:

Did the lower court err in allowing the CIA to invoke the state secrets privilege and in dismissing a covert operative's employment discrimination suit as a result?

Holding:

No; affirmed. Dismissal follows inevitably when the sum and substance of the case involves state secrets. Litigation centering around a covert agent's assignments, evaluations and colleagues meets this test.

Counsel:

Mark Steven Zaid, Washington, D.C., for appellant. AUSA William Joseph Howard, Dept. of Homeland Security, for appellee.

LOAD-DATE: August 11, 2005

RIGHTS: U.S. INVOKES 'STATE SECRETS PRIVILEGE' IN TORTURE LAWSUIT IPS-Inter Press Service
February 2, 2005, Wednesday

IPS-Inter Press Service

February 2, 2005, Wednesday

LENGTH: 1003 words

HEADLINE: RIGHTS: U.S. INVOKES 'STATE SECRETS PRIVILEGE' IN TORTURE LAWSUIT

BYLINE: By William Fisher

DATELINE: NEW YORK, February 2 2005

BODY:

The Justice Department has again asserted "state secrets privilege" in seeking to dismiss a lawsuit by Maher Arar, a Syrian-born Canadian citizen who was detained in the United States in 2002 and sent against his will to Syria, where he says he was tortured until his release a year later.

The privilege was invoked "in order to protect the intelligence, foreign policy and national security interests of the United States," wrote Acting Attorney-General James B. Comey in legal papers filed in the Eastern District of New York.

"Litigating... plaintiff's complaint would necessitate disclosure of classified information," according to Comey, including disclosure of the basis for detaining him in the first place, the basis for refusing to deport him to Canada as he had requested, and the basis for sending him to Syria. He was never charged with any crime.

Arar, who has been home in Ontario for more than a year, is being represented by the Centre for Constitutional Rights (CCR), a New York-based civil rights advocacy organization

"Maher Arar's is a very significant case," said his attorney, Barbara Olshansky, in a statement. "It involves the torture and arbitrary detention of an innocent man seized and removed on the basis of uncorroborated and incorrect information, and puts to the test this administration's commitment to the eradication of torture."

This is the third time the Department of Justice has invoked the "state secrets privilege" in recent years.

In 2003, the Central Intelligence Agency (CIA) successfully used the statute to move for dismissal of a lawsuit brought by Jeffrey Sterling, a former CIA officer who alleged that he was the victim of racial discrimination by the agency. That case is on appeal.

The state secrets privilege was invoked again in 2004 to block a lawsuit brought by Federal Bureau of Investigation (FBI) whistleblower Sibel Edmonds.

Edmonds, a former Middle Eastern language specialist hired by the FBI shortly after Sep. 11, 2001, was fired in 2002 after repeatedly reporting serious security breaches and misconduct in the agency's translation program. She challenged her dismissal by filing suit in federal court.

Last July, the court dismissed her case when outgoing Attorney-General John Ashcroft invoked the state secrets privilege. Her appeal will be heard in April.

The Justice Department's Inspector General conducted a classified investigation and concluded that Edmonds' allegations "were at least a contributing factor in why the FBI terminated her services."

The American Civil Liberties Union (ACLU), a Washington-based human rights advocacy group that is defending Edmonds, has been sharply critical of the government. It said the district court "relied on the government's secret evidence but denied Edmonds the opportunity to prove her case based on non-sensitive evidence.

" That approach, it added, "made a mockery of the adversarial process and denied Ms. Edmonds her constitutional right to a day in court." The organization said "the government has relied on the state secrets privilege to cover up its own negligence", citing a 1948 Supreme Court case in which "the government claimed that disclosing a military flight accident report would jeopardize secret military equipment and harm national security."

However, release of the accident report -- nearly 50 years later -- revealed that the cause of the crash was faulty maintenance of the B-29 fleet.

Arar, a Canadian citizen born in Syria in 1970, came to Canada in 1987. After earning bachelor's and master's degrees in computer engineering, Arar worked in Ottawa as a telecommunications engineer.

On a stopover in New York as he was returning to Canada from a vacation in Tunisia in September 2002, U.S. officials detained Arar, claiming he had links to al-Qaeda. He was deported to Syria, even though he was carrying a Canadian passport and asked to be returned to that country.

Arar returned to Canada more than a year later, claiming he had been tortured during his incarceration. He accused U.S. officials of sending him to Syria knowing that it practices torture. U.S. officials have confirmed that "Mr. Arar's name was placed on a terrorist lookout list based on information received from Canada ", and that "the decision to remove Mr. Arar ... was made by U.S. government officials based on our own assessment of the security threat."

Meanwhile, in Mr. Arar's home country, Canada, the case has taken on a high profile. Following extensive media interest, the government reluctantly agreed to a judicial inquiry into the case, which involves the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP).

According to the Toronto Globe, there is some suspicion that the government "is attempting to stall the inquiry into irrelevancy by tying it up in lengthy legal proceedings."

"Although the government asked a judge to conduct a public inquiry, it seems determined to retain control over what information will be made public about Mr. Arar, especially as it relates to the activities of the CSIS and the RCMP," the Globe said.

The U.S. State Department has refused to cooperate with the Canadian inquiry.

Arar was transported to Syria under a U.S. government program known as "extreme rendering" -- taking detainees to countries where prison authorities are known to practice torture. The program has been used extensively by the CIA, which uses leased Gulfstream business jets for its flights. The U.S. government has acknowledged that it engages in "extreme rendering", but insists that countries to which its prisoners are taken provide "diplomatic assurance" that they will be treated humanely.

It is generally thought that the rendering practice may be responsible for some of the "ghost detainees" from Iraq and Afghanistan -- U.S. prisoners whose identities have been hidden from the International Committee of the Red Cross.

LOAD-DATE: February 3, 2005